

AMENDMENTS TO LB556

Introduced by Judiciary.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 28-101, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 28-101 Sections 28-101 to 28-1357, ~~28-1418.01, 28-1429.03,~~ and
6 28-1601 to 28-1603 and section 3 of this act shall be known and may be
7 cited as the Nebraska Criminal Code.

8 Sec. 2. Section 28-1201, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 28-1201 For purposes of sections 28-1201 to 28-1212.04 and section 3
11 of this act, unless the context otherwise requires:

12 (1) Facsimile firearm means any replica, toy, starter pistol, or
13 other object that bears a reasonable resemblance to or that reasonably
14 can be perceived to be an actual firearm;

15 (2) (1) Firearm means any weapon which is designed to or may readily
16 be converted to expel any projectile by the action of an explosive or
17 frame or receiver of any such weapon;

18 (3) (2) Fugitive from justice means any person who has fled or is
19 fleeing from any peace officer to avoid prosecution or incarceration for
20 a felony;

21 (4) (3) Handgun means any firearm with a barrel less than sixteen
22 inches in length or any firearm designed to be held and fired by the use
23 of a single hand;

24 (5) (4) Juvenile means any person under the age of eighteen years;

25 (6) (5) Knife means any dagger, dirk, knife, or stiletto with a
26 blade over three and one-half inches in length or any other dangerous
27 instrument capable of inflicting cutting, stabbing, or tearing wounds;

1 (7) ~~(6)~~ Knuckles and brass or iron knuckles means any instrument
2 that consists of finger rings or guards made of a hard substance and that
3 is designed, made, or adapted for the purpose of inflicting serious
4 bodily injury or death by striking a person with a fist enclosed in the
5 knuckles;

6 (8) ~~(7)~~ Machine gun means any firearm, whatever its size and usual
7 designation, that shoots automatically more than one shot, without manual
8 reloading, by a single function of the trigger;

9 (9) ~~(8)~~ School means a public, private, denominational, or parochial
10 elementary, vocational, or secondary school, a private postsecondary
11 career school as defined in section 85-1603, a community college, a
12 public or private college, a junior college, or a university;

13 (10) ~~(9)~~ Short rifle means a rifle having a barrel less than sixteen
14 inches long or an overall length of less than twenty-six inches; and

15 (11) ~~(10)~~ Short shotgun means a shotgun having a barrel or barrels
16 less than eighteen inches long or an overall length of less than twenty-
17 six inches.

18 Sec. 3. (1) Any person who uses a facsimile firearm or
19 nonfunctioning firearm to commit a felony commits the offense of use of a
20 facsimile firearm or nonfunctioning firearm to commit a felony.

21 (2) Use of a facsimile firearm or nonfunctioning firearm to commit a
22 felony is a Class IIA felony.

23 (3) Use of a facsimile firearm or nonfunctioning firearm to commit a
24 felony shall be treated as a separate and distinct offense from the
25 felony being committed, and a sentence imposed under this section shall
26 be consecutive to any other sentence imposed.

27 (4) For purposes of this section, use of a facsimile firearm or
28 nonfunctioning firearm includes the employment of such firearm or visible
29 display of any part of such firearm during, immediately prior to, or
30 immediately after the commission of a felony.

31 Sec. 4. Section 28-1351, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 28-1351 (1) A person commits the offense of unlawful membership
3 recruitment into an organization or association when he or she knowingly
4 and intentionally coerces, intimidates, threatens, or inflicts bodily
5 harm upon another person in order to entice that other person to join or
6 prevent that other person from leaving any organization, group,
7 enterprise, or association whose members, individually or collectively,
8 engage in or have engaged in any of the following criminal acts for the
9 benefit of, at the direction of, or on behalf of the organization, group,
10 enterprise, or association or any of its members:

11 (a) Robbery under section 28-324;

12 (b) Arson in the first, second, or third degree under section
13 28-502, 28-503, or 28-504, respectively;

14 (c) Burglary under section 28-507;

15 (d) Murder in the first degree, murder in the second degree, or
16 manslaughter under section 28-303, 28-304, or 28-305, respectively;

17 (e) Violations of the Uniform Controlled Substances Act that involve
18 possession with intent to deliver, distribution, delivery, or manufacture
19 of a controlled substance;

20 (f) Unlawful use, possession, or discharge of a firearm, facsimile
21 firearm, nonfunctioning firearm, or other deadly weapon under sections
22 28-1201 to 28-1212.04 and section 3 of this act;

23 (g) Assault in the first degree or assault in the second degree
24 under section 28-308 or 28-309, respectively;

25 (h) Assault on an officer, an emergency responder, a state
26 correctional employee, a Department of Health and Human Services
27 employee, or a health care professional in the first, second, or third
28 degree under section 28-929, 28-930, or 28-931, respectively, or assault
29 on an officer, an emergency responder, a state correctional employee, a
30 Department of Health and Human Services employee, or a health care
31 professional using a motor vehicle under section 28-931.01;

- 1 (i) Theft by unlawful taking or disposition under section 28-511;
- 2 (j) Theft by receiving stolen property under section 28-517;
- 3 (k) Theft by deception under section 28-512;
- 4 (l) Theft by extortion under section 28-513;
- 5 (m) Kidnapping under section 28-313;
- 6 (n) Any forgery offense under sections 28-602 to 28-605;
- 7 (o) Criminal impersonation under section 28-638;
- 8 (p) Tampering with a publicly exhibited contest under section
- 9 28-614;
- 10 (q) Unauthorized use of a financial transaction device or criminal
- 11 possession of a financial transaction device under section 28-620 or
- 12 28-621, respectively;
- 13 (r) Pandering under section 28-802;
- 14 (s) Bribery, bribery of a witness, or bribery of a juror under
- 15 section 28-917, 28-918, or 28-920, respectively;
- 16 (t) Tampering with a witness or an informant or jury tampering under
- 17 section 28-919;
- 18 (u) Unauthorized application of graffiti under section 28-524;
- 19 (v) Dogfighting, cockfighting, bearbaiting, or pitting an animal
- 20 against another under section 28-1005; or
- 21 (w) Promoting gambling in the first degree under section 28-1102.
- 22 (2) Unlawful membership recruitment into an organization or
- 23 association is a Class IV felony.

24 Sec. 5. Section 28-1354, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 28-1354 For purposes of the Public Protection Act:

- 27 (1) Enterprise means any individual, sole proprietorship,
- 28 partnership, corporation, trust, association, or any legal entity, union,
- 29 or group of individuals associated in fact although not a legal entity,
- 30 and shall include illicit as well as licit enterprises as well as other
- 31 entities;

1 (2) Pattern of racketeering activity means a cumulative loss for one
2 or more victims or gains for the enterprise of not less than one thousand
3 five hundred dollars resulting from at least two acts of racketeering
4 activity, one of which occurred after August 30, 2009, and the last of
5 which occurred within ten years, excluding any period of imprisonment,
6 after the commission of a prior act of racketeering activity;

7 (3) Until January 1, 2017, person means any individual or entity, as
8 defined in section 21-2014, holding or capable of holding a legal,
9 equitable, or beneficial interest in property. Beginning January 1, 2017,
10 person means any individual or entity, as defined in section 21-214,
11 holding or capable of holding a legal, equitable, or beneficial interest
12 in property;

13 (4) Prosecutor includes the Attorney General of the State of
14 Nebraska, the deputy attorney general, assistant attorneys general, a
15 county attorney, a deputy county attorney, or any person so designated by
16 the Attorney General, a county attorney, or a court of the state to carry
17 out the powers conferred by the act;

18 (5) Racketeering activity includes the commission of, criminal
19 attempt to commit, conspiracy to commit, aiding and abetting in the
20 commission of, aiding in the consummation of, acting as an accessory to
21 the commission of, or the solicitation, coercion, or intimidation of
22 another to commit or aid in the commission of any of the following:

23 (a) Offenses against the person which include: Murder in the first
24 degree under section 28-303; murder in the second degree under section
25 28-304; manslaughter under section 28-305; assault in the first degree
26 under section 28-308; assault in the second degree under section 28-309;
27 assault in the third degree under section 28-310; terroristic threats
28 under section 28-311.01; kidnapping under section 28-313; false
29 imprisonment in the first degree under section 28-314; false imprisonment
30 in the second degree under section 28-315; sexual assault in the first
31 degree under section 28-319; and robbery under section 28-324;

1 (b) Offenses relating to controlled substances which include: To
2 unlawfully manufacture, distribute, deliver, dispense, or possess with
3 intent to manufacture, distribute, deliver, or dispense a controlled
4 substance under subsection (1) of section 28-416; possession of marijuana
5 weighing more than one pound under subsection (12) of section 28-416;
6 possession of money used or intended to be used to facilitate a violation
7 of subsection (1) of section 28-416 prohibited under subsection (17) of
8 section 28-416; any violation of section 28-418; to unlawfully
9 manufacture, distribute, deliver, or possess with intent to distribute or
10 deliver an imitation controlled substance under section 28-445;
11 possession of anhydrous ammonia with the intent to manufacture
12 methamphetamine under section 28-451; and possession of ephedrine,
13 pseudoephedrine, or phenylpropanolamine with the intent to manufacture
14 methamphetamine under section 28-452;

15 (c) Offenses against property which include: Arson in the first
16 degree under section 28-502; arson in the second degree under section
17 28-503; arson in the third degree under section 28-504; burglary under
18 section 28-507; theft by unlawful taking or disposition under section
19 28-511; theft by shoplifting under section 28-511.01; theft by deception
20 under section 28-512; theft by extortion under section 28-513; theft of
21 services under section 28-515; theft by receiving stolen property under
22 section 28-517; criminal mischief under section 28-519; and unlawfully
23 depriving or obtaining property or services using a computer under
24 section 28-1344;

25 (d) Offenses involving fraud which include: Burning to defraud an
26 insurer under section 28-505; forgery in the first degree under section
27 28-602; forgery in the second degree under section 28-603; criminal
28 possession of a forged instrument under section 28-604; criminal
29 possession of written instrument forgery devices under section 28-605;
30 criminal impersonation under section 28-638; identity theft under section
31 28-639; identity fraud under section 28-640; false statement or book

1 entry under section 28-612; tampering with a publicly exhibited contest
2 under section 28-614; issuing a false financial statement for purposes of
3 obtaining a financial transaction device under section 28-619;
4 unauthorized use of a financial transaction device under section 28-620;
5 criminal possession of a financial transaction device under section
6 28-621; unlawful circulation of a financial transaction device in the
7 first degree under section 28-622; unlawful circulation of a financial
8 transaction device in the second degree under section 28-623; criminal
9 possession of a blank financial transaction device under section 28-624;
10 criminal sale of a blank financial transaction device under section
11 28-625; criminal possession of a financial transaction forgery device
12 under section 28-626; unlawful manufacture of a financial transaction
13 device under section 28-627; laundering of sales forms under section
14 28-628; unlawful acquisition of sales form processing services under
15 section 28-629; unlawful factoring of a financial transaction device
16 under section 28-630; and fraudulent insurance acts under section 28-631;
17 (e) Offenses involving governmental operations which include: Abuse
18 of public records under section 28-911; perjury or subornation of perjury
19 under section 28-915; bribery under section 28-917; bribery of a witness
20 under section 28-918; tampering with a witness or informant or jury
21 tampering under section 28-919; bribery of a juror under section 28-920;
22 assault on an officer, an emergency responder, a state correctional
23 employee, a Department of Health and Human Services employee, or a health
24 care professional in the first degree under section 28-929; assault on an
25 officer, an emergency responder, a state correctional employee, a
26 Department of Health and Human Services employee, or a health care
27 professional in the second degree under section 28-930; assault on an
28 officer, an emergency responder, a state correctional employee, a
29 Department of Health and Human Services employee, or a health care
30 professional in the third degree under section 28-931; and assault on an
31 officer, an emergency responder, a state correctional employee, a

1 Department of Health and Human Services employee, or a health care
2 professional using a motor vehicle under section 28-931.01;

3 (f) Offenses involving gambling which include: Promoting gambling in
4 the first degree under section 28-1102; possession of gambling records
5 under section 28-1105; gambling debt collection under section 28-1105.01;
6 and possession of a gambling device under section 28-1107;

7 (g) Offenses relating to firearms, weapons, and explosives which
8 include: Carrying a concealed weapon under section 28-1202;
9 transportation or possession of machine guns, short rifles, or short
10 shotguns under section 28-1203; unlawful possession of a handgun under
11 section 28-1204; unlawful transfer of a firearm to a juvenile under
12 section 28-1204.01; using a deadly weapon to commit a felony or
13 possession of a deadly weapon during the commission of a felony under
14 section 28-1205; use of a facsimile firearm or nonfunctioning firearm to
15 commit a felony under section 3 of this act; possession of a deadly
16 weapon by a prohibited person under section 28-1206; possession of a
17 defaced firearm under section 28-1207; defacing a firearm under section
18 28-1208; unlawful discharge of a firearm under section 28-1212.02;
19 possession, receipt, retention, or disposition of a stolen firearm under
20 section 28-1212.03; unlawful possession of explosive materials in the
21 first degree under section 28-1215; unlawful possession of explosive
22 materials in the second degree under section 28-1216; unlawful sale of
23 explosives under section 28-1217; use of explosives without a permit
24 under section 28-1218; obtaining an explosives permit through false
25 representations under section 28-1219; possession of a destructive device
26 under section 28-1220; threatening the use of explosives or placing a
27 false bomb under section 28-1221; using explosives to commit a felony
28 under section 28-1222; using explosives to damage or destroy property
29 under section 28-1223; and using explosives to kill or injure any person
30 under section 28-1224;

31 (h) Any violation of the Securities Act of Nebraska pursuant to

1 section 8-1117;

2 (i) Any violation of the Nebraska Revenue Act of 1967 pursuant to
3 section 77-2713;

4 (j) Offenses relating to public health and morals which include:
5 Prostitution under section 28-801; pandering under section 28-802;
6 keeping a place of prostitution under section 28-804; labor trafficking,
7 sex trafficking, labor trafficking of a minor, or sex trafficking of a
8 minor under section 28-831; a violation of section 28-1005; and any act
9 relating to the visual depiction of sexually explicit conduct prohibited
10 in the Child Pornography Prevention Act; and

11 (k) A violation of the Computer Crimes Act;

12 (6) State means the State of Nebraska or any political subdivision
13 or any department, agency, or instrumentality thereof; and

14 (7) Unlawful debt means a debt of at least one thousand five hundred
15 dollars:

16 (a) Incurred or contracted in gambling activity which was in
17 violation of federal law or the law of the state or which is
18 unenforceable under state or federal law in whole or in part as to
19 principal or interest because of the laws relating to usury; or

20 (b) Which was incurred in connection with the business of gambling
21 in violation of federal law or the law of the state or the business of
22 lending money or a thing of value at a rate usurious under state law if
23 the usurious rate is at least twice the enforceable rate.

24 Sec. 6. Original sections 28-101, 28-1201, 28-1351, and 28-1354,
25 Reissue Revised Statutes of Nebraska, are repealed.